

CENTER FOR REGULATORY REASONABLENESS

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November 21, 2014

Via FOIA Online

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460
Facsimile: (202) 566-2147

Re: Freedom of Information Act Request for Records Associated with Invitation-Only Stakeholder Conferences Attended by EPA's Office of Water, which Were Not Run as Federal Activities

To Whom This May Concern:

This is a request for a public records pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. Section 552, as implemented by the Environmental Protection Agency ("EPA") at 40 C.F.R. Part 2. For purposes of this request, the definition of "records" includes, but is not limited to, documents, letters, memoranda, notes, reports, e-mail messages (including e-mails to and from personal e-mail accounts), minutes, handouts, policy statements, data, technical evaluations or analysis, and studies.

Background

On or about October 29, 2014, EPA's Office of Water hosted or arranged to host a conference for stakeholders on issues regarding the implementation of proposed criteria for ammonia. The conference was to occur at EPA's Crystal City offices, and last two days; the agenda is attached to this request. Attendance was by invitation only.

Request

This request seeks any and all agency records pertaining to any similar, invitation-only stakeholder meetings which EPA's Office of Water has attended and which were not run as a federal activity open to the public.

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Please contact the undersigned if the associated search and duplication costs are anticipated to exceed \$250.00. Please duplicate the records that are responsive to this request and send it to the undersigned at the above address. If the requested record is withheld based upon any asserted privilege, please identify the basis for the non-disclosure.

If you have any questions regarding this request, please do not hesitate to contact this office so as to ensure that only the necessary document is duplicated.

Warmest Regards,

A handwritten signature in black ink, appearing to read "John C. Hall", written in a cursive style.

John C. Hall
Executive Director
Center for Regulatory Reasonableness

AMMONIA CRITERIA IMPLEMENTATION STAKEHOLDERS MEETING AGENDA

Wednesday, October 29

- 8:30 – Welcome, Introductions, Ground Rules [NACWA]
8:40 - EPA Welcome [OST Manager Invited]
8:50 - Stakeholder Opening Remarks [NACWA/WEF/WERF/ACWA]
9:00 - Overview of Ammonia Criteria and Implementation Guidance [HECD and SHPD Invited]

State of the Science: Fate & Effects of Ammonia on Freshwater Aquatic Environment

- 9:45 - Municipal and Industrial Dischargers' Concerns Related to Compliance
[Stakeholder Selected/NACWA]
10:30 - **Break**
10:45 - Options for Implementation Approaches & Issues Specific to Ammonia in Freshwater [Stakeholder
Selected/ACWA]
11:30 - Freshwater Mussel Presence/Absence and Appropriate/Defensible Mussel Survey Methods (including,
spatial distribution/density throughout US and estimated increase in mussel population with
implementation of criteria)
[Mussel Expert Invited]
12:15 - **Lunch**

Discussion Topics [Facilitated with Guest Participation – see Attachment A]

- 1:30 - Topic #1: Guidance Options for Criteria Implementation (including variance, use attainability analysis,
site-specific criteria using recalculation methodology, controlled discharge, seasonal discharge)
2:30 - Discussion Topic #2: Identification of Issues/Concerns Related to State Implementation
3:30 - **Break**
3:45 - Discussion Topic Area #3: Identification of Issues/Concerns Related to Determination of Mussel
Presence/Absence
4:45 - Recap/Closing Remarks [NACWA/Open Forum]
5:15 - **Adjourn**

Thursday, October 30

- 8:30 - Outstanding Issues [Open Forum]
9:00 - Prioritization of Data Gaps/Shared Implementation Issues:
 - Implementation Guidance
 - State implementation (including identification of near and far field impacts of WWTF discharges and the
relationship to the scope of mussel surveys)
 - Discussion of mixing zones, as appropriate
 - Determination of Mussel Presence/Absence (including guidance on minimum data expectations)
 - Physical stream (habitat) survey
 - Other methods (e.g. DNA analysis)
 - Snail presence/absence analysis if mussels are determined absent
 - Potential development of ammonia criteria implementation tool if mussels absent
10:30 - **Break**
10:45 - Feasibility and Support for Projects to Address the Highest Priority Issues and Development of a
Framework of “Common Principles”
12:15 – Recap/Closing Remarks [NACWA/Open Forum]
12:30 - **Adjourn meeting**

Agenda Attachment A – Stakeholder Issues of Interest for Facilitated Discussion

Discussion Topic #1 – Implementation Guidance

- EPA guidance provides flexibilities that need explored. Which are most important?
- Where should water quality measurements be made, at surface or depth based on where the juveniles are developing?
- How far downstream from the discharge should the assessment cover?
- How to determine ability of species returning to a site, e.g., what if the site been permanently altered (urbanization)? How is this determined?
- How to define whether the economic costs of attainment would be a “substantial/widespread impact”?
- In situations where neither EPA’s national criterion nor its calculated values for mussels -absent appear appropriate, what are the best methods for development of site-specific criteria? Ammonia WER? Recalculation Procedure?

Discussion Topic Area #2 – State Implementation

- Are there states or areas where the premise of absence could be assumed first and dependent on a review to show presence?
- What are some state/region examples of designated uses defined or modified based on mussel presence/absence and how is it done?
- Should formal UAAs have a role?
- Reasonable potential to exceed standard – relevant temperature and pH data critical – what can be done to make sure the data is representative of the site and its area of highest ammonia concentrations? What are some examples?
- How can we establish principles for establishing the time allowed to the standard?
- How to match permit limit duration and timing to environmental and life cycle realities?
- What about changing design dilution flow and design pH specifications?
- Changing the actual location of the discharge point for more dilution or better receiving water qualities: Are there regulatory or feasibility roadblocks?
- Are there any other flexibilities?

Discussion Topic Area #3 – Determination of Mussel Presence/Absence

- How is mussel presence/absence defined? How is attainment of aquatic life designated use defined? And how do the definitions affect how it is determined?
- What kind and how much data are required - what is the cost?
- Can a more rapid and less expensive screening process be applied, and how?
- Does availability of host fish play a role in determining whether unionids should be protected at a site? Examples?
- Does availability of suitable habitat alone define presence? If not, what other information is necessary?
- How can it be determined whether other site characteristics or stressors will prevent mussel populations from recovering after attaining the ammonia criteria?
- Are there ambient receiving water characteristics (e.g., water hardness, alkalinity, turbidity, current speed, temperature) that could be expected to **not** support unionid juveniles that are protected by the criteria?
- Can we develop specific recommended approaches, and establish their scientific defensibility?